

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

**IN RE: TERRORIST ATTACKS ON
SEPTEMBER 11, 2001**

**Civil Action No.
03 MDL 1570 (GBD) (FM)**

*This document applies to
Hoglan, et al. v. The Islamic Republic
of Iran, et al.
1:11-cv-07550-GBD*

SECOND DECLARATION OF PHILOMENA MISTRULLI

I, Philomena Mistrulli, declare under penalty of perjury, pursuant to 28 U.S.C §1746, that the following is true and correct to the best of my knowledge, information and belief.

1. I am a resident of the State of New York and a citizen of the United States of America. I am over the age of eighteen.
2. The information contained in this Declaration is true and is based upon my personal knowledge. This is my second Declaration in this case.
3. I am the widow of Joseph D. Mistrulli, the daughter of James Mandelino, Sr., as well as the sister of James Mandelino, Jennie Mandelino , Maryann Pino, and the late Michael Mandelino. My husband was one of the thousands of victims who was murdered as a result of the terrorist attacks on September 11, 2001.
4. I make this declaration in order to shed light on the dynamics of our family, supporting the claims made by my sisters and brothers, to demonstrate that their relationships with my husband, Joseph D. Mistrulli, were the functional equivalents of a sibling relationship, *i.e.*, that they were indeed regarded as brothers and sisters; as immediate family, to my late husband.

5. What is family? Is family solely defined by the blood that flows through your veins? Or could it be that family is defined by something far greater than that? I was raised by two amazing individuals who instilled in us a more profound meaning of family. Family, to us, was a bond that spanned through every facet of life. A bond created of unconditional love and surpassing any genetic code. A bond that meant no matter whether you were going through your lowest point, or at the pinnacle of your highest, you always had someone to share it with. You always had a mother's warm embrace, a father's guidance, and the friendship of a brother or sister. You truly were never alone. This was not something that you needed to ask for, it was just always there. It was a profound love that stretched through generations and could never falter.
6. In 1977, I was able to bring into our family a wonderful man who spent many years of his life never feeling the compassion and love that family can offer. After dating for a year, I married my husband Joe, and he immediately became a part of our family. When we were married, my family became his family. My parents were his parents, and my brothers and sisters were his brothers and sisters. We were one family unit.
7. Being newlyweds and expecting our first child, we were very grateful to have such a solid support system and an immeasurable amount of love in our lives. My brother Jimmy was in his early teens, and my brother Michael was barely 5 years old. My sister Jennie was in her late teens, and my sister Maryann was in her early teens. They all loved having an older brother, and Joe loved being that role in each of their lives. We watched my brothers and sisters all grow up, and we added 2 more children into the family as well.
8. We did everything together as a family. My parents owned a catering hall where we spent a lot of time growing closer and working together. We lived together, worked

together, laughed together, and cried together. We anticipated all growing old together. Little did we know what life had in store for us.

9. Joe thrived on the love and support of his new family unit, and we were able to fill a void that was there for many years. After all, he was not as fortunate to have had this in his life prior to our marriage. Joe grew up in a house that was not a home. My husband, from a very young age, was told that college was not an option for him even though he had a true gift for mathematics. Instead, he was put right to work to help provide for his family. He would come home after long days at work and he would find scraps left for him for dinner. Love was almost non-existent. So much so that when Joe and I got married, he never wanted to look back. He tried, with my encouragement, to involve his family in our lives and the lives of our children, but this was something that was just not in their nature. They treated him as if he was the black sheep of his family and made him an outcast for becoming the nurturing man he had evolved into. The relationship between my husband and his family was strained, and their non-existent role in his life hurt my husband.
10. Yet Joe didn't let that stop him from loving and caring for others. He after all had a new family, the one I believe he was always destined to be a part of.
11. The 80's were filled with countless family events that gave us wonderful memories and new additions. Our two daughters were born. Our whole family, my parents, brothers and sisters, as well as us, moved into the new family home on Pea Pond Road on Long Island, where we would reside together as a cohesive family unit for over 12 years. We filled the house with the laughter of children and love of family.
12. We watched my brother Michael grow from a toddler into an adult, spending many years bonding with Joe and learning the trade of carpentry. How would end up sponsoring

Michael with the NYC Carpenters Union. Michael would go on to choose carpentry as his career path in life, where he would work hand-in-hand with Joe, both at home and professionally. My brother Jimmy graduated college and started a new family business where Jimmy and Joe would often work on construction jobs together. My sister Jennie realized her love for public service. But you would often find Joey, Jimmy, Michael, and Jennie constantly renovating the family home or coming up with new projects to work on together. My sister Maryann graduated college and married her high school sweetheart, Tony. Tony and Joe became best friends, you would often find the two of them off having a conversation about life and family or sharing a cup of coffee at the dinner table. Maryann would forge a relationship with Joe throughout the many years together that for Joe would serve as the substitute for his missing relationship with his biological sister. The bond between Mary Ann and Tony and Joe and myself would become very strong as we both headed down the same paths in life with starting families.

13. My husband would come to think of my parents as his own, he would turn to my mother for advice and my father for a man to look up to. He didn't do that with his own biological parents. Our relationships – all of them – were not based on who shared blood because we all shared love. We took family vacations altogether year after year, were all present for every birthday, holiday, dance recital, boy scouts, girl scouts, school plays, graduations, everything. We all were present for family dinners and weekend breakfasts. When we needed tickets to events, we were not a family of 5, but a family of 12 or more.
14. Entering into the 1990's, slowly the family did eventually move into homes of their own, but we all ensured our houses were within walking distance of each other. But that did not dilute the powerful bond that was already formed. Walls did not make this home; love did. We continued to spend our free time together. We ensured we had our

Saturday breakfast buffets and Sunday dinners, Italian style. Spending time with each other was not limited to the holidays or birthdays as it is in some families, it was everyday we could. I can recall through the years that Joe loved the holidays. He loved spending Mother's Day with my mother and Father's Day with my father. He truly felt this was his family, and it was true, we all felt the same way. We did not limit ourselves to the bond of blood, but rather we embraced the bond of affinity.

15. When we purchased our own home, my whole family was there to help. We could not have done that without the continuous emotional, physical, and financial support of the family unit.
16. My husband loved three things in life: cooking, carpentry, and his family. He shared his love of creating things with everyone in his own unique way. The bond of carpentry spread through my father, Joey, Michael, Jimmy, and Jennie. The cooking recipes were shared and kept secret between Joe, my mother, and my sister Maryann. We each brought our own qualities that brighten the family unit as a whole.
17. We relied so much on our family. I can recall times when Joe was laid off of work, sometimes for months, and my parents, brothers, and sisters all contributed financially and emotionally to keep food on the table and a roof over the kids' heads. My family also gave us so much support with being a listening ear and keeping spirits lifted during difficult times. They would ensure the family never skipped a beat and they never asked for anything in return.
18. This commitment was reciprocated by all. We would help with building each others' homes both physically and emotionally.
19. My family was present in all the moments in Joe's life that shaped him into the man that we all desperately miss today. The 1990's were also filled with darker times. My

mother, the center of our universe, was diagnosed with a terminal, debilitating disease. We watched her strength as she battled through the agony of this disease for almost 5 years. We banded together to get the whole family through this rough time in our lives. She wanted to make every moment count, and we did. I struggled watching this amazing women suffer day by day.

20. My mother's decline had a traumatic effect on my already fragile mental health. In the 1980's, I discovered that I suffered from mental illness. When my mother got ill, I was hospitalized as an in-patient several times for my own well being. This was an extremely difficult thing for my husband to deal with. He was watching the women he called "mom" for over 20 years wilt away before his eyes, and his wife either heavily medicated or hospitalized fighting for her own sanity. All while trying to raise three children and play both mother and father. But my family was not going to let Joey do this alone. Even though they were living lives of their own and had families of their own and their mother was extremely ill fighting for her life, they banded together yet again to help Joey get through it. They played the role of interim mother and wife, and helped the children get through a scary time when they didn't have their own mother to go to. I must point out that while my husband was trying to get through these difficult times his blood relatives were nowhere to be found.
21. In 2000, I had to undergo a medical procedure that would leave me in a coma clinging to life. My husband was yet again left with the burden of playing both mother and father, this time with the uncertainty of whether or not he would ever have his wife come home. This was an unbearable task to undertake physically, emotionally, and financially. But, just like in the past, when my husband needed support, my family unit was there for him to fill my shoes when I couldn't, and help Joe through one of the darkest points in his life

when what he needed was love and compassion and guidance. And my parents, and my brothers and sisters all made sure he had what he needed. The kids were taken to school, dinner was cooked, clothing was washed, and shoulders were available to cry on when needed. Family is supposed to be there for one another in good times and in bad, and we all were. Joe never was without because he had a unit of people who were really functioning as his immediate family, who were there for him and loved him unconditionally.

22. In 2001, our world would be devastated by events that would test the breaking points of our family. In February 2001, our mother lost her battle with her disease. She just couldn't fight anymore. Our hearts were broken and a piece forever chiseled away, leaving a void in our family. We were at a very fragile state, for this was the first loss of our immediate family.

23. Seven months later, on an ordinary Tuesday morning, the unspeakable happened. I was preparing for our first vacation alone together, just husband and wife. This was one of two trips we had scheduled; the other was for October and was with the whole family, every brother and sister, niece and nephew. We were excited for this time in our lives where we get to focus on us, and we would get to fill these next chapters in our lives with glorious memories that we would create together. At that moment, I had no clue that those memories would be robbed from us.

24. Suddenly, my phone rang. It was my sister, Mary Ann. She asked me if Joe was home from work and I told her he wasn't because he got called into a different shift. Then she asked if my son was home with me and to go get him. I knew something was not right at that moment, and I demanded her tell me what was going on. She told me to turn the TV on, that a plane had hit the World Trade Center. I turned the TV on and my sister was

watching on her end, and by that time my son had come into the room. We sat there crying in shock, fixated on the TV. Watching my husband's murder right before our eyes. We physically sat there, watching him perish in an act of pure hatred. We didn't know if he was one of the blurs on the screen but we just knew he was there and he was dying as we were watching. We weren't physically in the towers with him but we were there for the event of his death.

25. My sister Mary Ann arrived at my house and watched with me as we hoped and prayed Joe was out of those buildings. When the towers collapsed, my world was blown into a million pieces. I saw every "I love you," every hug, every kiss, every argument play before my eyes like a movie in slow motion. The hours following are filled with my family arriving to help me, make phone calls, trying everywhere and anywhere to find Joey. Before I knew it, the missing person pictures were printed with all of our phone numbers for contact and Joe's picture with a quote "God and angels up above bring us home the one we love." My brother Michael and my sister Jennie tapped Joe's missing person poster to their shirts and headed into Ground Zero, where they would spend months in search and recovery efforts. My sister Maryann was on the phone giving descriptions, posting online, calling everyone she could. And also helping me survive this moment that to most is unsurvivable. My father and brother Jimmy took me daily down to the armory to search for Joe. We spent months going back and forth to Ground Zero looking for Joe or trying to talk to anyone who may have encountered him that day.
26. But as time passed, I started to realize the reality that my husband, the love of my life, the father of my children, my best friend, was gone forever and was never going to walk through that door again to say "I love you."

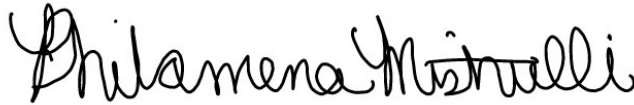
27. My family helped navigate through planning his memorial and funerals. And they played a tremendous role in helping my children try to get their lives back to normal. In 2003, the first remains of Joe were identified. We exhumed his coffin to finally lay Joey to rest. We stood together my children, my father, my brothers and sisters and their children as we tried to give Joe some peace that day. We loved this man in life and in his death and we continue to love and miss him every second of every day. We ensured that during the 24 years that Joe was part of our family, he was never alone up until his last day on this earth. Even though his biological family wasn't there to lay him to rest, or even cared to help find him, he had the family who loved and honored him there to celebrate his wonderful life that was cut too short. We continue to all be a part of each other's lives and teach Joe's grandchildren, that he never got to meet, who this amazing man was. He lives on in them and in the stories of such wonderful memories and decades of love that we can share with them.

28. So I come back to my original question. "What is family?" Joe's real immediate family wasn't restricted to the blood that flowed through his veins. It was made up of the love that flowed from his heart, and from ours to his. This family didn't share his DNA or know him as a baby, but for 24 years, this family was present for every moment that mattered and even plenty that were just ordinary. This family guided and supported him through every obstacle that he would face and celebrated every triumph. In the Bible, God references when there is only one set of footprints in the sand, on our beach you would find 8 sets, because when one of us was unable to carry the burden that is placed in their lives, we each help carry them through. This family created more memories and love in those 24 years than most anyone could create in a normal lifetime. The bond was undeniable and indestructible even in death. Joe still remains a prominent figure in all of

our lives and the memory of this wonderful man that he became within the bosom of this family is carried on through all of us because WE WILL NEVER FORGET and, after all, he IS OUR FAMILY!!

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing declaration is true and correct to the best of my knowledge, information and belief.

EXECUTED this 5th day of May, 2017.

A handwritten signature in cursive script, reading "Philomena Mistrulli". The signature is written in black ink and is positioned above a horizontal line.

Philomena Mistrulli